

REMARKS

Claims 2-10 are pending in the present application. Claims 11-22 were previously canceled as directed at non-elected subject matter. Claim 1 has been canceled. Applicants thank the examiner for withdrawal of the §103 rejection of claim 10. This response contains amendments to claim 7 and 10 which were suggested in the Office action to obviate 35 U.S.C. § 112, second paragraph, rejections. Claim 9 has been amended to utilize the correct article.

The amendment filed 9/12/2005 to the specification was objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure.

The amendments objected to in the previous response replaced the term "thioalkyl" with "alkylthio" and "thioaryl" with "arylthio". The Office Action dated 5/20/2005 correctly noted that the terms "thioalkyl" and "thioaryl" were not standard nomenclature and were ambiguous.

Applicants respectfully traverse and request amendment of the specification. A reading of the specification as a whole clearly indicates that the intended substituent was an alkylthiol and no "reasonable debate" as to the correct text exists. The term "thioalkyl" is believed to appear six times in the specification. Five of these appear in the definition of R⁵ which is the substituent in the 2 position of the pyrimidine which ultimately becomes the 2 position of the purine ring. Steps a, b and c of claim 10 as originally filed depict a pyrimidine in which the 2-position is substituted with "R¹⁰S-" wherein R¹⁰ is alkyl, cycloalkyl or aryl. Step d depicts the corresponding sulfone. Examples 1 (page 24) and 2 (page 27) show a pyrimidine in which the 2-position is substituted to a methylthiol radical. No group other than "thioalkyl" which was recited for R⁵ could correspond to the substituent depicted in the chemical structures.

Furthermore the assumption that the intended substituent was "Me-S-" is completely consistent with the sequence of chemical reactions in the disclosure (oxidation of the sulfide to a sulfone and displacement of a methylsulfinyl radical). None of the alternative interpretations provided in the text bridging page 4 and 5 of the Office Action dated 05/20/2005 is a plausible alternative when viewed in the context of the reaction sequence in the examples.

The term "thioaryl" appears at the same parts of the specification as "thioaryl" and similar arguments apply.

Applicants believe that based upon the structures in the examples 1 and 2 and in claim 10 and the transformations involving R⁵, one of ordinary skill in the art would understand precisely what was intended in

the event that the ambiguous nomenclature even was noted and that no new matter has been introduced by the amendments. Reconsideration and withdrawal of the objection is requested. Applicants have further requested amendment of all instances where the terms "thioalkyl" and "thioaryl" appear in the original specification.

Claims 2-10 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement...The reasons are set forth above...

Reconsideration and withdrawal of the rejection is requested for the reasons outlined above. The nomenclature used was held to be ambiguous; however, viewed in the context of the entire specification, there is no other sensible alternative interpretation of the text. The complete reaction sequence is illustrated in examples 1 and 2 and there can be no doubt that the inventors contemplated a sequence in which the ambiguous term "thioalkyl" as a substituent for R⁵ refers to "CH₃-S-" moiety. Steps a, b and c of claim 10 as originally filed depict a pyrimidine in which the 2-position is substituted with "R¹⁰S-" wherein R¹⁰ is alkyl, cycloalkyl or aryl.

CONCLUSION

This amendment and response incorporate suggestions made by the Examiner in the previous Office Action to remove 35 U.S.C. § 112, first paragraph, rejections. The amendment further requests introduction of amendments proposed previously which were objected to as new matter along a showing of support in the specification that one skilled in the art would recognize the existence of an error and therefore the amendments do not constitute new matter. No new subject matter has been incorporated and no further search is required by the amendments herein. The amendments are supported by the specification as filed. The claims as currently amended are believed to place the claims in condition for allowance and reconsideration and withdrawal of all rejections is respectfully requested. Although no fee is believed to be due with this response, should a fee be required Examiner is authorized to deduct the fee from our deposit account 18-1700. If the Examiner believes a telephone conference will expedite the prosecution of this application, the Examiner is invited to contact the undersigned at the number indicated below.

Respectfully submitted,



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